

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE NATIONAL PRESCRIPTION  
OPIATE LITIGATION

MDL No. 2804

Case No. 17-md-2804

This document relates to:  
*Cabell County Commission v.*  
*AmerisourceBergen Drug Corporation, et al.*  
Case No. 1:17-op-45053-DAP (S.D. W. Va.)

Judge Dan Aaron Polster

**REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MANUFACTURER  
DEFENDANTS' JOINT MOTION TO DISMISS PLAINTIFF'S SECOND AMENDED  
COMPLAINT**

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Evidence 201, the Manufacturer Defendants hereby request that the Court take judicial notice of the following documents in support of Manufacturer Defendants' Joint Motion to Dismiss Plaintiff's Second Amended Complaint ("2AC"). All exhibit references correspond to the exhibits attached to the Declaration of Charles C. Lifland, filed contemporaneously in support of the above-referenced motion.

1. **Exhibit A:** The complaint in *State of West Virginia v. Amerisourcebergen, et al.*, Case No. 12-C-141 (W. Va. Cir. Ct. Boone Cnty. June 26, 2012);
2. **Exhibit B:** The amended complaint in *State of West Virginia v. McKesson Co.*, Case No. 16-C-1 (W. Va. Cir. Ct. Boone Cnty. Jan. 21, 2016); and
3. **Exhibit C:** A copy of the Cabell County Commission Resolution, as filed by Cabell County on March 9, 2017 as Exhibit 1 to its Original Complaint in the instant action. *See* Dkt. No. 1-1.

The State of West Virginia complaints (Exhibits A-B) are subject to judicial notice as they are filings in a court of record. *See Lyons v. Stovall*, 188 F.3d 327, 332 n.3 (6th Cir. 1999)

(“[F]ederal courts may take judicial notice of proceedings in other courts of record.” (citation omitted)); *In re Huffy Corp. Sec. Litig.*, 577 F. Supp. 2d 968, 981-82 (S.D. Ohio 2008) (taking judicial notice of allegations made in complaint in another proceeding).

The Court may also take judicial notice of the Cabell County Resolution (Exhibit C), as it is a “matter of public record and there is no dispute between the Parties about its authenticity.” *Ramirez v. Medtronic, Inc.*, 961 F. Supp. 2d 977, 984 (D. Ariz. 2013); *see also Davis v. Nice*, 2012 WL 3961236, at \*5 (N.D. Ohio Sept. 10, 2012) (taking judicial notice of a municipal ordinance); *Lewis v. Livingston Cnty. Ctr. for Nursing & Rehab.*, 30 F. Supp. 3d 196, 203 (W.D.N.Y. 2014) (taking judicial notice of a county resolution). Alternatively, the Cabell County Resolution is incorporated by reference in the 2AC. *See* 2AC ¶¶ 31, 891; *see also Composite Techs., L.L.C. v. Inoplast Composites SA de CV*, 925 F. Supp. 2d 868, 873 (S.D. Ohio 2013) (finding that documents referenced in complaint were incorporated by reference).

**WHEREFORE**, the Manufacturer Defendants respectfully request that the Court take judicial notice of the abovementioned exhibits.

Dated: June 8, 2018

Respectfully submitted,

By: /s/ Charles C. Lifland  
Charles C. Lifland  
Sabrina H. Strong  
O’MELVENY & MYERS LLP  
400 S. Hope Street  
Los Angeles, CA 90071  
Tel: (213) 430-6000  
clifland@omm.com  
sstrong@omm.com

*Attorneys for Defendants Janssen  
Pharmaceuticals, Inc., Johnson & Johnson,  
Janssen Pharmaceutica, Inc. n/k/a Janssen  
Pharmaceuticals, Inc., and Ortho-McNeil-  
Janssen Pharmaceuticals, Inc. n/k/a Janssen  
Pharmaceuticals, Inc.*

/s/ Mark S. Cheffo (consent)

Mark S. Cheffo  
Sheila L. Birnbaum  
Hayden A. Coleman  
DECHERT LLP  
Three Bryant Park  
1095 Avenue of the Americas  
New York, NY 10036  
Tel: (212) 698-3500  
Mark.Cheffo@dechert.com  
Sheila.Birnbaum@dechert.com  
Hayden.Coleman@dechert.com

*Attorneys for Defendants Purdue Pharma  
L.P., Purdue Pharma Inc., and The Purdue  
Frederick Company*

s/ Jonathan L. Stern (consent)

Jonathan L. Stern  
Arnold & Porter Kaye Scholer LLP  
601 Massachusetts Ave. NW  
Washington, DC 20001  
Phone: 202-942-5000  
Fax: 202-942-5999  
Email: jonathan.stern@arnoldporter.com

Sean O. Morris  
Arnold & Porter Kaye Scholer LLP  
777 S. Figueroa St., Suite 4400  
Los Angeles, CA 90017  
Phone: 213-243-4000  
Fax: 213-243-4199  
Email: sean.morris@arnoldporter.com

*Attorneys for Endo Health Solutions Inc. and  
Endo Pharmaceuticals Inc.*

*Attorneys for Par Pharmaceutical, Inc. and  
Par Pharmaceuticals Companies, Inc. (not  
yet served or appearing)*

/s/ Steven A. Reed (consent)

Steven A. Reed  
Eric W. Sitarchuk  
Rebecca J. Hillyer  
MORGAN, LEWIS & BOCKIUS LLP  
1701 Market St.  
Philadelphia, PA 19103-2921  
T: 215.963.5603  
F: 215.963.5001  
steven.reed@morganlewis.com  
eric.sitarchuk@morganlewis.com  
rebecca.hillyer@morganlewis.com

Brian M. Ercole  
MORGAN, LEWIS & BOCKIUS LLP  
200 S. Biscayne Blvd., Suite 5300  
Miami, FL 33131-2339  
(305) 415-3000  
brian.ercole@morganlewis.com

*Attorneys for Teva Pharmaceuticals USA, Inc., Cephalon, Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc.*

/s/ Donna M. Welch (consent)

Donna M. Welch, P.C.  
KIRKLAND & ELLIS LLP  
300 North LaSalle  
Chicago, Illinois 60654  
(312) 862-2000  
donna.welch@kirkland.com

*Counsel for Allergan Finance, LLC f/k/a Actavis, Inc. f/k/a Watson Pharmaceuticals, Inc.*

/s/ Eric H. Zagrans (consent)  
Eric H. Zagrans (0013108)  
ZAGRANS LAW FIRM LLC  
6100 Oak Tree Boulevard, Suite 200  
Cleveland, Ohio 44131  
Telephone: 216.771.1000  
Facsimile: 866.261.2008  
eric@zagrans.com

J. Matthew Donohue  
Joseph L. Franco  
HOLLAND & KNIGHT LLP  
2300 U.S. Bancorp Tower  
111 S.W. Fifth Avenue  
Portland, OR 97204  
Telephone: 503.243.2300  
Facsimile: 503.241.8014  
matt.donohue@hklaw.com  
joe.franco@hklaw.com

Nicholas A. Sarokhanian  
HOLLAND & KNIGHT LLP  
200 Crescent Court, Suite 1600  
Dallas, TX 75201  
Telephone: 214.964.9500  
Facsimile: 214.964.9501  
nicholas.sarokhanian@hklaw.com

*Counsel for Insys Therapeutics, Inc.*

/s/ Brien T. O'Connor (consent)  
Brien T. O'Connor  
Andrew J. O'Connor  
ROPES & GRAY LLP  
Prudential Tower  
800 Boylston St.  
Boston, MA 02199-3600  
(617) 235-4650  
Brien.O'Connor@ropesgray.com  
Andrew.O'Connor@ropesgray.com

*Attorneys for Defendant Mallinckrodt LLC*

*Attorneys for SpecGX LLC (not yet served  
or appearing)*

/s/ Daniel G. Jarcho (consent)

Daniel G. Jarcho\*

D.C. Bar No. 391837

ALSTON & BIRD LLP

950 F Street NW

Washington, DC 20004

Telephone: (202) 239-3254

Facsimile: (202) 239-333

daniel.jarcho@alston.com

Cari K. Dawson\*

Georgia Bar No. 213490

Jenny A. Mendelsohn\*

Georgia Bar No. 447183

ALSTON & BIRD LLP

1201 West Peachtree Street NW

Atlanta, GA 30309

Tel.: (404) 881-7000

Fax: (404) 881-7777

cari.dawson@alston.com

jenny.mendelsohn@alston.com

*Attorneys for Noramco, Inc.*

*\* denotes national counsel who will seek pro  
hac vice admission*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 8, 2018, a copy of the foregoing **Request for Judicial Notice** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Dated: June 8, 2018

/s/ Charles C. Lifland

Charles C. Lifland  
O'MELVENY & MYERS LLP  
400 S. Hope Street  
Los Angeles, CA 90071  
Telephone: (213) 430-6000  
Facsimile: (213) 430-6407  
clifland@omm.com

*Attorney for Defendants Janssen Pharmaceuticals, Inc., Johnson & Johnson, Janssen Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc., and Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc.*